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Title VI Action
Committee
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05/17/2005 08:10
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To
Nancy Tommelleo/R4/USEPA/US@EPA,
Yasmin Yorker/DC/USEPA/US@EPA,
Mike Mattheisen/DC/USEPA/US@EPA,
Anthony Napoli/DC/USEPA/US@EPA

CC
Rights Civil@EPA

Subject
Title VI Complaint Against the
City of Clarksville Regarding
\$100,000.00 EPA Grant to City

Title VI Action Committee

[REDACTED]

(931) 572-9103 Office

[REDACTED]

titleviactioncommittee@yahoo.com

US Environmental Protection Agency
Office of Civil Rights (1201A)
1200 Pennsylvania Ave NW
Washington, DC 20460

May 17, 2005

Dear Sir,

It is the belief of the Title VI Action Committee that this public body the City of Clarksville and their agencies and Departments are not in compliance with the Civil Rights Act of 1964 and in doing so are committing fraud. Presently they are under investigation by several state and federal agencies for non-compliance with Title VI laws, rules and regulations.

The Title VI Action Committee also believe that the state of Tennessee agencies such as the the Tennessee Department of Environment and Conservation, and other state agencies that funds these public bodies know that they are not in compliance with Title VI laws, rules and regulations yet they continue to fund these public bodies in violation of state and federal laws.

Please read the following below and have your agency investigate the state of Tennessee and these public bodies for fraud. This is in

regards to the United States Environmental Protection Agency awarding the City of Clarksville a grant over \$100,000.00. The Title VI Action Committee requests that this funding be halted until a Title VI pre-award audit is performed by your office and a complete Title VI Compliance Review is conducted by your agency

Data collection and analyses is an essential, critical component of a Title VI implementation strategy. It is impossible to measure the success of your Title VI program without knowing the makeup of potential and actual participants and beneficiaries, the racial makeup of the affected communities, and the racial and ethnic makeup of staff administering federal assisted programs and activities. Each state agency should develop and maintain a database of program participants and beneficiaries. This is not being done by the City of Clarksville or the Tennessee Department of Environment and Conservation, that provides funding for this public body.

Demographic information relative to program administration staff should be evaluated and studied to determine whether there is a causal nexus employment discrimination against beneficiaries. Language addressing this issue can be found in the "Title VI Legal Manual" published by the U. S. Department of Justice, Civil Rights Division," which provides: Where is this being performed by the above mentioned public body and the Tennessee Department of Environment and Conservation that provides funding for them?

In regard to Federal financial assistance which does not have providing employment as a primary objective, the provisions of paragraph [c] [1] [prohibitions where objective is employment] apply to the employment practices of the recipient if discrimination on the grounds of race, color, national origin in such employment practices tends, on the grounds of race, color or national origin, to exclude persons from participation in, to deny them the benefits of or be subject them to discrimination under the program receiving Federal financial assistance. In any case, the provisions of paragraph [c] [1] of this section shall apply to the extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.

The Commission hereby urges state agencies to collect employment data on their sub-recipients to improve their ability to effectively monitor their sub-recipient's efforts to comply with Title VI. If the City of Clarksville is not collecting the above employment data then how can the Tennessee Department of Environment and Conservation, that provides them funding effectively monitor them?

The reasons fraud comes into this situation is due to the fact that the the Tennessee Department of Environment and Conservation, that awarded the City of Clarksville funding failed to follow these rules and regulations to be in compliance with state and federal laws. And the Tennessee Department of Environment and Conservation, signed those pesky letters of assurances stating they were in compliance with the law.

Signing those letters of assurances enabled these public bodies to perpetuate fraud! These public bodies received state and federal funds in violation of state and federal regarding the Civil Rights Act of 1964.

Please reply to this e-mail as soon as possible.

Enoch Hagans, Director
Title VI Action Committee

TENNESSEE TITLE VI COMPLIANCE COMMISSION
Tennessee Department of Personnel
First Floor, James K. Polk Building
505 Deaderick Street Nashville, Tennessee
37243-0635
(615) 253-6717

TO: All State Agencies
FROM: Tennessee Title VI Compliance Commission
Tennessee Title VI Compliance Commission Advisory Memorandum No. 3
Date: April 14, 2004

As you know, the Tennessee Title VI Compliance Commission (the "Commission") was established in August 2002 by Executive Order No. 34. Title VI of the Civil Rights Act of 1964 provides as follows:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

See also Tenn. Code Ann. § 4-21-904. Pursuant to Executive Order No. 34, it is the policy of the State of Tennessee to comply with Title VI, to prohibit discrimination, and to avoid the loss of federal funding. As one of many steps towards ensuring full compliance with Title VI by the State of Tennessee, the Commission is issuing this Advisory Memorandum.

Most state agencies administer continuing programs subject to Title VI and must take affirmative steps to monitor the compliance efforts of their sub-recipients. With the foregoing in mind, we advise you of the following.

I. Oversight and Monitoring of Continuing State Programs

When a state agency is given discretionary authority by a federal agency to dispense assistance to sub-recipients, said state agency must have an effective and verifiable oversight and monitoring program in place to monitor its sub recipient's compliance with Title VI. The state agency's method of administration should, as a minimum, include the following:

[1] A public outreach and education program to inform sub-recipients of their compliance responsibilities.

[2] A training program for sub-recipients regarding Title VI compliance requirements.

[3] Consistent procedures for responding to complaints and notifying beneficiaries of their rights under Title VI.

[4] Compliance review procedures to assess and measure whether a sub-recipient is meeting the requirements of Title VI [more than a self-survey and/or a checklist of activities].

[5] Collect racial and ethnic [include National Origin] data on each sub-recipient's program.

[6] Procedures for effective and verifiable pre-award and post-award evaluation of sub-recipient's compliance programs.

II. Data Collection and Analysis

Data collection and analyses is an essential, critical component of a Title VI implementation strategy. It is impossible to measure the success of your Title VI program without knowing the makeup of potential and actual participants and beneficiaries, the racial makeup of the affected communities, and the racial and ethnic makeup of staff administering federal assisted programs and activities. Each state agency should develop and maintain a database of program participants and beneficiaries.

Demographic information relative to program administration staff should be evaluated and studied to determine whether there is a causal nexus employment discrimination against beneficiaries. Language addressing this issue can be found in the "Title VI Legal Manual" published by the U. S. Department of Justice, Civil Rights Division," which provides:

In regard to Federal financial assistance which does not have providing employment as a primary objective, the provisions of paragraph [c] [1] [prohibitions where objective is employment] apply to the employment practices of the recipient if discrimination on the grounds of race, color, national origin in such employment practices tends, on the grounds of race, color or national origin, to exclude persons from participation in, to deny them the benefits of or be subject them to discrimination under the program receiving Federal financial assistance. In any case, the provisions of paragraph [c] [1] of this section shall apply to the extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.

The Commission hereby urges state agencies to collect employment data on their sub-recipients to improve their ability to effectively monitor their sub-recipient's efforts to comply with Title VI.

The "Guidelines for the Enforcement of Title VI, Civil Rights Act of 1964," allow state agency recipients to defer decisions on sub-recipient applications for assistance. Moreover, said guidelines provide that "it is legal permissible temporarily to defer action on an application for assistance, pending initiation and completion of [statutory remedial] procedures-including attempts to secure voluntary compliance with Title VI." State agencies can adopt a flexible case by case approach to determine when deferral is appropriate. When a decision is made to defer approval of a sub-recipient's application for assistance, the state agency should, without delay, seek a voluntary resolution and, if no settlement is reached, refuse to award assistance.

Over and above the matters set forth in this Advisory Memorandum, it is the responsibility of your agency to know, understand and comply with all of the requirements, and prohibitions, arising from Title VI and its regulations. The Commission stands ready to assist in the same.

Your assistance in ensuring that the State of Tennessee complies in all respects with Title VI is greatly appreciated. If you have any questions or require any assistance, please contact me at (615) 244-9270 or John Birdsong, Director of the Tennessee Title VI Compliance Commission, at (615) 253-6717. Any written correspondence to the Commission should be directed as follows:

John Birdsong, Director Tennessee
Title VI Compliance Commission Tennessee
Department of Personnel

First Floor, James K. Polk Building
505 Deaderick Street
Nashville, Tennessee 37243-0635
John.Birdsong@state.tn.us

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Title VI Action Committee
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06/01/2005 07:44 PM

To Yasmin Yorker/DC/USEPA/US@EPA
Anthony Napoli/DC/USEPA/US@EPA, Mike
cc Mattheisen/DC/USEPA/US@EPA, Nancy
Tommelleo/R4/USEPA/US@EPA

bcc

Title VI Action Committee Requests A Full and Complete
Subject Title VI Audit and Compliance Review Regarding City of
Clarksville \$100,000.00 EPA Grant

Title VI Action Committee

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(931) 572-9103 Office

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titleviactioncommittee@yahoo.com

EPA Office of Civil Rights
External Compliance Program
Assistant Director Yasmin Yorker
1200 Pennsylvania Avenue, NW
Washington, DC 20460

June 01, 2005

Dear Ms Yasmin Yorker,

Please read the following material below. It explains pretty much in detail what the City of Clarksville and its agencies are not doing here. The Title VI Action Committee **request a full and complete Pre-Award Title VI Audit and Compliance Review** before awarding this public body any federal funding.

Enoch Hagans, Director
Title VI Action Committee

Here is the list of questions/guidelines often used by Federal and State Agencies when conducting city reviews. The Title VI Action Committee is of the opinion that these same guidelines are applicable to cities and agencies within their organizations. Please note that this is not being done by the City of Clarksville or its agencies.

Please have EPA review the City of Clarksville documentation to support the following:

Exploring the needs within the minority community

Involving minority community and disabled persons in the planning process

Using different consultants including minorities and women for contracting opportunities for planning, corridor studies, or other work

Including minorities/disabled persons on boards and committees and in leadership roles

Document Title VI efforts, even when not negatively impacted
Advertising public meetings/hearings in places where minorities/disabled persons go

Hold meetings at times and places convenient for the minority community and disabled persons

Communicate [orally and in writing] in languages other than English, when needed

Consider the special needs of all persons in accordance with public accommodation requirements

Follow up with the minority community after public meetings, when decisions are made, and after project implementation [for feedback on impact and process used]

City of Clarksville Title VI Staff

Please describe how the city staff, boards and commissions are sensitive to minority and traditionally under served populations [minority, disabled, low income, elderly].

a. The Executive Order on Environmental Justice and Title VI provisions require that planning commission's, boards, councils reasonably reflect the racial/ethnic composition of the community affected by their programs.

b. Please describe the composition of the city's staff, Citizen Advisory Committee [s]; and other committees by race and gender.

Documentation Requested of the City of Clarksville

How does the planning process analytically seek to identify the needs of low income and minority populations in examining the distribution of the benefits and impacts of environmental clean-up [i.e. projects in their Environmental Plan and Improvement Program] across these groups?

Please describe the city's efforts to identify impacts on minority and traditionally under served populations, including success of these efforts. Include the extent to which adverse or disproportionate impacts are identified; benefits to protected groups identified and how stakeholders who have members of protected groups contacted for input?

To What extent does the city discuss public involvement opportunities in the planning and decision making processes for low income and minority populations?

Is there an, EEO/AA plan administered by the City of Clarksville?

Is someone identified to respond to Civil Rights issues? Is there a person designated as the Civil Rights Officer? Does the Civil Rights Officer have the authority to carry out civil rights responsibilities? Is there a committee with the function of Civil Rights? [23 CFR 200.9] {A}{1}

Have there been any special studies (which is to include environmental studies) of minority or low income communities conducted in the past five years?

Does the city publish assurances of non-discrimination: Policy Statement from Mayor, Affirmative Action Plan, and Title Plan? Are they current and signed by current Mayor? [23 CFR 200.9 (a) (1) & 23 USC 134 and 49 USC]

Does the Mayor have a compliance process including a Title VI compliance, a procedure for accepting complaints, a complaint log, a complaint form and a complaint resolution process? (23 CFR200.9 (a))

Discuss the Mayor promote awareness of ADA including addressing handicap mobility in programming; physical access to offices: and accommodations provided both within city and its organization in its planning program. (28 CFR 41)

Is there evidence of adherence to a nondiscrimination requirement in contracts and allocation of funds to sub recipients? Does the city use Title VI assurances in advertisements for contracts? Does the city use a non-discrimination policy statement? Does the city use a non-discrimination policy clause? (23 CFR 200.9 (a) (1))

Does the city have a process for review of established procedures to identify and eliminate policies and practices that appear on their face to be neutral but may have the effect of discriminating? **Please review the following.**

Analysis of results for equity

Review of processes, procedure and practices

Review of participation records and comments

Public Involvement – 42 USC 2000d et seq.; 49 CFR part 21; 28 CFR part 42, Subpart F, Executive Order 12898

To what extent has/does the city routinely evaluate the overall performance and effectiveness of the public involvement/engagement strategies and mechanisms contained in adopted Public Involvement Program, especially for low-income and minority populations.

Are minority media sources appropriately included in all notification processes for public meeting or public review of agency documents.

Does the city have contacts with minority groups or leaders and are they used appropriately to identify information needs and planning/program issues of concern including how the city maintains a current list of minority and other traditionally underserved populations.

Describe how the city makes available technical information in formats and at places and times conducive to review by minorities and other traditionally underserved populations.

Describe how communities traditionally underserved address their environmental concerns, such as are low-income or minority communities actively sought out for involvement including innovative outreach practices.

Describe how meeting locations and formats encourage or facilitate participation by minorities and other traditionally underserved populations.

Discuss environmental situations or controversial issues regarding current or past projects which could be perceived as adversely impacting the local communities.

Discuss how and when citizens, modal agencies, advocate groups and resource agencies participate in the planning process and in what capacity.

Discuss the types of complaints and concerns received from the public and to what extent these matters were addressed by the city.

What are the city's procedures for processing and responding to complaints and concerns from the public? (23 CFR 200.9 (a) (3))

Contracting Opportunities – 42 USC 2000d et seq.; 49 CFR part 21.5(b) (2) & (3); 28 CFR Part 42, Subpart F

Discuss primary or subcontracting opportunities for planning studies, corridor studies, or other work, which have been provided to minorities and women owned firms in the last twelve months.

Please disclose the following information:

The number and nature of consultant contracts used by the city.

The number of minority and female consultants used by the city, including the nature of the work, type and description of projects, and locations.

What outreach methods are used by the city to attract minority and female consultants?

Please discuss any problems, complaints, or concerns by minority and female consultants.

Describe successes as a result of utilization of minority and women consultants.

Discuss how the city identifies minority and women consultants/vendors including maintaining a current list of eligible minority and women consultants.

Does the city have contracting relations with Minority Institutions of Higher Education, either directly or indirectly?

Public Hearings – 42 USC 2000d et seq.; 49 CFR Part 21.5 (c) (1) (2); 28 CFR Part 42, Subpart F: EO 12898.

Describe public notification process for public hearings and program plan or project public information meetings.

Describe process for selection of hearing sites.

Describe methods used to comply with ADA requirements for hearing sites? (28 CFR 41)

Describe methods or innovations used to solicit public participation by all groups including minorities and other traditionally underserved Populations.

Describe extent of Title VI, Environmental Justice and ADA sensitivity in publications, public hearings and notifications to the public: use of non-traditional media [minority publications and radio], diversity of language and cultures in publications and communication, outreach to include minorities and the traditionally underserved advocacy groups, posted notices of equal opportunity and nondiscrimination.

Community Impact Assessment? 23 USC 109(h) lists the types of adverse social and economic impacts that must be investigated and documented.

Describe how Community Impact Assessments are being used by the city to address environmental concerns and their impact on the community.

Describe how community value issues, social issues, neighborhood issues, environmental justice and civil rights issues are normally addressed by the city.

Describe how community values and concerns information are documented by the city as part of the public record and as part of normal day to day operations; i.e. calls from the public.

Describe how the city has asked impacted communities how they wish to be involve in communications and assessments. (Including any pending guides or publications).

Describe how this information is incorporated into the city's environmental plan.

Discuss how community based goals, objectives and program initiatives at neighborhood, sub-areas and regional levels will be addressed and implemented by the city as a part of the planning process for the city's environmental concerns.

As a result of local comprehensive planning, community impact assessment, intergovernmental coordination, and public involvement initiatives by the city, what other social, economic and community based programs (including federal, state and local funding initiatives) are integrated into the planning process and reflected in the environmental plan.

How and when is this information provided to the EPA? Discuss methods of mitigation used to resolve adverse impacts of environmental programs in the last twelve months.

Service Equity, EO 12898 Cumulative Impacts; 42 USC 2000 d ET seq.; 49 CFR Part 42, Subpart F. Discuss in the context of land use planning, cumulative impacts of the benefits and burdens (regional plan level).

Discuss the data collected and analyzed by the city and/or other area planning agencies for assessing the regional benefits and cumulative impacts of environmental concerns and clean-up investments (i.e. Environmental projects in the Long-Range Clean-Up Plan and Environmental Improvement Program) for different socioeconomic groups. What enhancements does the city envision as a result of it's experience in the last twelve months?

Discuss to what extent the city coordinates with citizens and community-based agencies, groups and/or organizations in defining communities within the city's geographic area of responsibility in assessing potential benefits and impacts of environmental clean-up investments, particularly related to minority populations and other traditionally under utilized populations.

Recap any analytical packages utilized for statistical data collection/analysis of minority population in charts and graphs, identification of low income and the traditionally underserved (where they live and what their needs are). What current demographic data on minority and the traditionally underserved populations is the city working with?

Discuss examples of planning related tools/methodology or programs sensitive to Title VI, EJ and /or ADA adherence (a special, or unique effort and/or involvement where a protected class receives benefits)

This review approach is being used in other jurisdictions.

The main issue has always been a lack of real and substantive participation in the city's planning process.

The minority community has been unable to comment on long range environmental clean-up plans. The City of Clarksville does not have any of the following above data. Please conduct a full and complete Title VI Audit and Compliance Review.

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